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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,739	12/01/2000	Mark A. Sheridan	255.0004	4181

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EXAMINER

LI, RUIXIANG

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 01/13/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,739

Applicant(s)

SHERIDAN ET AL.

Examiner

Ruixiang Li

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☒ Claim(s) 1,2 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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DETAILED ACTION

I. Status of Application, Amendments, and/or Claims

The amendment filed in Paper No. 21 on October 28, 2002 has been entered in full. Claims 1-5, 12, 14, and 15 have been amended. Claims 1-15 are pending. Claims 1-3 and 12-15 are under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

II. Priority

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. 119(e) to a provisional application, 60/168,934, filed upon December 3, 1999.

III. Withdrawn Objections and/or Rejections

The objection to the Disclosure, as set forth at page 3 of the previous Office Action (Paper No. 19, June 28, 2002) has been withdrawn in view of applicants' amendment to the disclosure.

The rejection of claims 1 and 2 under 35 U.S.C. 101, as set forth at page 3 of the previous Office Action (Paper No. 19, June 28, 2002), has been withdrawn in view of applicants' amendment to the claims.

The rejection of claims 1, 12, and 13 under 35 U.S.C. 112, First Paragraph, as set forth at pages 3-5 of the previous Office Action (No. 19, June 28, 2002), has been withdrawn in view of applicants' amendment to the claims.

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The rejection of claims 1 and 2 under 35 U.S.C. 102 (b), as set forth at pages 5-6 of the previous Office Action (No. 19, June 28, 2002), has been withdrawn in view of applicants' amendment to the claims.

The rejection of claims 12 and 13 under 35 U.S.C. 103 (a), as set forth at pages 6-7 of the previous Office Action (No. 19, June 28, 2002), has been withdrawn in view of applicants' amendment to the claims.

The objection of claim 15 for minor informalities, as set forth at page 7 of the previous Office Action (No. 19, June 28, 2002), has been withdrawn in view of applicants' amendment to the claim.

IV. Claim Rejection under 35 U.S.C. § 101

The rejection of claim 3 under 35 U.S.C. 101, as set forth at page 3 of the previous Office Action (Paper No. 19, June 28, 2002), remains.

Applicants argue that the claims have been amended to obviate the rejection (page 3 of applicants' response). This has been fully considered but is not found to be persuasive because claim 3 has not been amended to require that the polypeptide is isolated or purified.

V. Claim Objections

The objection of claims 1-3 and 12-14 for minor informalities, as set forth at page 7 of the previous Office Action (No. 19, June 28, 2002), remains. The amended claims still recite unelected subject matter, amino acid sequences, SEQ ID NOS: 2, 16, 17, and 19.

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The Examiner notes that the restriction requirement on the amino acid sequences set forth in the previous office action in paper No. 11 is not considered to be species election requirement, rather it sets forth group inventions.

Claim 15 is objected to as being dependent upon a objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

VI. Conclusion

No claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (703) 306-0282. The examiner can normally be reached on Monday-Friday, 8:30 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564. The fax phone number for this Group is (703) 305-3014 or (703) 308-4242.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [yvonne.eyler@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Ruixiang Li
Examiner
January 6, 2003

Elizabeth C. Kemmerer

~~ELIZABETH C. KEMMERER~~
PRIMARY EXAMINER

ELIZABETH KEMMERER
PRIMARY EXAMINER